

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

LANDS-COURT CASES - Orders Dt.20.09.2005 of Supreme Court in SLP in C.A. No. 2447/2004 filed by Sri. G. Srinivas against the Government of A.P. and others claiming EP Land admeasuring Acres 2.38 guntas in Plot No. 7A, Road No.2, Shaikpet Village and Mandal, Hyderabad District - Heard the case - Representation of Sri G.Deepak Reddy & (3) others claiming over plot no.7A, 8D &8E of Erst While Jubilee Hills Municipality - Impleaded - Both the requests rejected - Orders Issued.

REVENUE (J.A-1) DEPARTMENT

G.O. Ms. No .607

**Dated:19-12-2013.
Read the following :-**

1. G.O. Ms. No. 1068 Revenue (Assn.III) Department Dt: 26-12-1996.
2. S.L.P. in C.A. No. 2447 of 2004 order dated 20.09.2005 of Supreme Court of India.
3. Written Arguments dated 02.06.2007 filed by the Counsel for Petitioner.
4. From the Collector, Hyderabad District, Lr. No. LO1/1111/1989, Dated. 14.9.2007.
5. Representation of Sri. G. Srinivas, dated. 23.04.2012.
6. Representation of Sri K.Pratap Reddy, GPA holder of Sri G.Srinivas Dt.16.10.2012.
7. Representation of Sri. Deepak Reddy & (3) others, Dt: 30/11/2012.
8. Representation of Sri. K. Pratap Reddy, GPA holder of Sri. G. Srinivas, dated 16.10.2012 & 23.01.2013.
9. From the CCLA, A.P., Hyderabad Ref. No. SEP3/09/2013, Dated. 25.03.2013.
10. From the Collector, Hyderabad Lr. No. LO1/111/1989, Dt. 20.05.2013.

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In the G.O. first read above, orders were issued rejecting the claim of Sri. G. Srinivas over Plot No. 7-A admeasuring Ac. 2.38 gts., situated at Banjara Hills, Shaikpet Village and Mandal, Hyderabad District concluding that it is an Evacuee Property of Sri. Khaja Moinuddin Ansari, alias Moin Nawaz Jung Bahadur and is in the possession of the Government. The orders issued in G.O. Ms. NO. 955, (Revenue Assn.III) Department, dated 17-9-1992 setting aside the de-recognition orders of the Government, in respect of subject land and instructing the Collector, Hyderabad to issue NOC and Supplementary Sethwar in favour of Sri. G. Srinivas, were also cancelled therein.

2. Aggrieved by the above orders, Sri. G. Srinivas filed W.P. No. 3479 of 1997 before the Hon'ble High Court of A.P. and the High Court in its order dated 12.10.2001 set aside the said orders of G.O. Ms. NO. 1068, Dt. 26.12.1996 holding that the property belongs to one Sri. Khaja Moinuddin Ansari and the petitioner succeeded the property in Question after death of his father who purchased the same under Sale Document and directed the respondent to implement the orders issued in G.O. Ms. NO. 955 Revenue(Assn.III) Department, dated 17.9.1992.

3. Aggrieved by the above order, Government filed W.A. No. 1929 of 2002 before the Division Bench of the Hon'ble High Court and the Hon'ble Division Bench of the High Court in its order dated 15.9.2002 set aside the above order of the Single Judge of the Hon'ble High Court.

4. Aggrieved by the above order Sri. G. Srinivas filed Civil Appeal No. 2447 of 2004 before the Hon'bel Supreme Court of India and the Hon'ble Court in its order dated 20.09.2005 set aside above both judgments of Single Judge and Division Bench of the High Court with the following observations:-

“It is in the aforementioned situation, we are of the opinion that a further opportunity of hearing may be given to the Appellant. For the aforementioned purpose, it is not necessary for the state to issue another notice inasmuch as in view of the allegations and counter allegations made in the writ petition, special leave petition as also the counter affidavits filed on behalf of the Respondents, each party before us is aware of the

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contentions raised on behalf of the other side. The appropriate authority of the State may, therefore, give an opportunity to the Appellant to be heard and an appropriate order may be passed thereafter.

However, it is clarified that all the parties would be at liberty to raise all contentions in the said proceedings.

We, however, do not appreciate the approach of the learned Single Judge while passing his judgment dated 12.10.2002. He did not consider the question as to whether validity or otherwise of the Notification dated 15.09.1949 issued under Regulation 6 of the Hyderabad Administration of Evacuee Property Regulation could have been questioned in a collateral proceedings. He further did not consider the fact that the question of title could not be determined in a writ proceeding; nor could the identity of a person conclusively be found out therein. The learned Single Judge furthermore did not advert to the limited scope of judicial review, namely, that an administrative order passed by the State can be questioned only on limited grounds and while entertaining a writ petition, the writ court does not act as an appellate authority.

For the reasons aforementioned, both the Judgments of the learned Single Judge and the Division Bench are set aside. The appeal is allowed with the aforementioned observations. However, in the facts and circumstances of the case, there shall be no order as to costs”.

5. In pursuance of the above orders of the Hon’ble Supreme Court of India Dt.20.09.2005, Government have given an opportunity to Sri. G. Srinivas (petitioner herein) to submit his oral as well as written arguments on 02.06.2007. The petitioner has submitted his written arguments, stating that the subject plot was not declared as Evacuee Property and the Government had recognized the plot in 1967 and Sri. Khaja Moinuddin Ansari was recorded as Pattadar and the possession was not taken by the Custodian or Government. The petitioner has also represented that the Forensic Laboratory has also opined that no opinion can be given in respect of the signature on the Sale Deed of the petitioner. In the light of the above arguments and in the light of the orders issued in G.O. Ms. No. 955, Revenue (Assn.III) Department, dated 17.09.1992, the petitioner prayed the Government to uphold his claim and further direct the District Collecetor, Hyderabad to issue NOC duly incorporating his name in TSLR.

6. In the reference 4th read above, the District Collector, Hyderabad submitted his reply to the written arguments, stating that if the Petitioner’s claim, that the document produced by him is original, was genuine one he would have produced the documents on many occasions i.e., applying for issue of NOC, implementation of revenue and survey records and other sale transaction or filing of declaration before Special Officer, ULC, Hyderabad as the extent of land exceeds ceiling limits. Therefore certainly the genuineness of the document is doubtful and it cannot be imagined that the Petitioner was silent since 1949 to 1991 in respect of such a valuable land without taking any steps to mutate his name and to protect the land from the Mayfair Apartments. The Petitioner has got the unregistered document revalued through Proceedings dated 27.07.1993 on the file of District Register after a period of (45) years. Therefore, the District Collector has recommended to reject the request of the Petitioner since the subject Plot No.7.A is an Evacuee Property. The Collector, Hyderabad inter-alia submitted that the Tahsildar, Shaikpet Mandal had filed LGC No.169 of 1999 before the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad against Mayfair Apartment Association and (27) others in TS No.13, Block B, Ward No.10 correlated to Sy.No.403, extent 5922 square meters, stating that the suit schedule property Plot No.7.A is an Evacuee Property. The Hon’ble Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad allowed the LGC No.169 of 1999 on 08.03.2006 and declared the respondents as land grabbers holding that the suit scheduled property is an Evacuee Property. The Collector, Hyderabad has finally stated that the petitioner Sri G. Srinivas is not in possession of the Plot No.7.A and he is also not a party to the LGC No.169/99 before the Special Court. Having gone through the arguments presented in the foregoing paras, based on the material available on record and also written submission of Sri. G. Srinivas as well as the District Collector, Hyderabad, Government conducted further hearings in this regard and the matter was finally heard on 30.03.2011.

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7. Further, Sri. K. Pratap Reddy, claiming to be the GPA holder of Sri. G.Srnivas, Hyderabad has submitted a representation in the reference 6th read above requesting to issue NOC in respect of Plot No. 7A, admeasuring an extent of Ac. 2.38 situated at Road No.2, Banjara Hills, Shaikpet Village and Mandal, Hyderabad.

8. While so, Sri. G. Deepak Reddy & (3) others in pursuance of the orders of the Hon'ble High Court of A.P., Hyderabad dt. 02.11.2012 passed in W.P. No. 26392/2011 leaving it open to the petitioners to get themselves impleaded in the proceedings that are pending before the Government in relation to Plot Nos. 7A, 8D and 8E in Sy. No. 129/71 of erstwhile Jubilee Hills Municipality and urge all their contentions, have filed representation in the reference 7th read above representing that the Petitioners 3 & 4 therein are absolute owners to the extent of Ac.12.5gts which forms part of Survey No.129/71 Plot Nos.7-A, 8-D and 8-E of erstwhile Jubilee Hills Municipality Development Plan situated in Shaikpet village and Mandal, Hyderabad District and the Petitioners 1 & 2 are the agreement holders. Due to irregularity in the Revenue Records and by mistake the subject property was declared as Evacuee Property by the GOI vide Notification Dt.15.09.1949, thereafter the Settlement Commissioner, Ministry of Rehabilitation, Gol, Bombay sold the said property and issued Sales Certificate Dt.22.04.1961 in favour of one Sri Ayoub Kamal Mohiuddin S/o Gulam Mohiuddin but subsequently the said sale was cancelled by the Asst. Custodian of Evacuee Property, Bombay vide his letter Dt.29.03.1963.

9. It is also represented that the possession of the above said land in the said 3 plots i.e., Ac.2.38 gts in Plot No.7-A, Ac.3.02gts in Plot No.8-D and Ac.2.08gts in Plot No.8-E totally admeasuring Ac.8.08gts., was delivered to Khaja Mohiuddin Ansari, F/o Petitioners 3&4 under cover of Panchanama with plan on 20.07.1334F and since then Khaja Mohiuddin Ansari and after his death his sons (Petitioners 3 & 4) have been in possession and enjoyment of the said plots, Government of AP, Revenue Department issued a Memo No.3933/Q2/64-17, Dt.06.12.1967 recognizing certain plots in erstwhile Jubilee Hills Municipality and in the said memo plot Nos 7-A, 8-D, & 8-E were treated as recognized Plots in the name of Sri Khaja Mohiuddin Ansari F/o Petitioners 3&4. It is further represented that they had filed W.P.No.26392/2011 praying the High Court to declare the Notification No.5, Dt.15.09.1949 as illegal which was disposed by the High Court on 02.11.2012 leaving it open to the Petitioners to get themselves impleaded in the proceedings which are pending before the Govt. in relation to Plot No.7-A, 8-D & 8-E in sy.No.129/71 of Erstwhile Jubilee Hills Municipality and urge all their contentions. The Petitioners, while quoting the case details of Sri G.Srinivas alleging that he is claiming Plot No.7A by creating forged and false documents, have requested the Government to declare them as owners of the property and mutate their names in the Revenue Records and revert the land in Sy.No.129/71, JHM Plot Nos.7A, 8D, 8E admeasuring Ac.13.00 at Banjara Hills, Road No.2, Hyderabad in their favour on the directions of the Hon'ble Division Bench Dt.22.11.2012 in W.A.No.1432/2012, Dt.02.11.2012 in W.P.No.26392 /2011 and SLP No.8418/2013.

10. Government after careful examination of the issue with reference to above factual position, as per the material available on the file and also written submissions of Sri G. Srinivas and the reports of the District Collector, Hyderabad and the CCLA, A.P., Hyderabad observe that :-

- (i) All the properties belonging to Sri. Khaja Moinuddin Ansari alias Moin Nawaz Jung Bahadur were declared as Evacuee Properties vide Gazette Notification No. 5 dated 15-09-1949. The Plot No. 7-A indisputably belongs to KHaja Moinuddin Ansari (Moin Nawaz Jung Bahadur). Therefore it was declared as Evacuee Property. The said notification has not been challenged by Sri. G.Srinivas or his father. Hence it became final.
- (ii) Sri. K. Sudershan who claimed the land under a GPA purportedly executed by Khaja Moinuddin Ansari, original allottee of Plot No. 7-A has challenged the Government Memo issued vide dated 19-01-1985 derecognizing Plot No. 7-A in W. P. No. 2684/1985 before Hon'ble High Court. The Hon'ble Court quashed the said memo directing the Government to take up the matter afresh by issuing notice, hear and pass appropriate orders. The Government after conducting enquiry ultimately found that the claim of Sri. L. Sudershan is based on certain

spurious documents and rejected the same. These orders of Government as far as the claim of K. Sudershan is concerned became final. Thus the orders of Hon'ble High Court dated 25-08-1988 have been complied with and as such the de-recognition memo is deemed to be in force.

- (iii) The sole document relied on by Sri. G. Srinivas which is an unregistered document was referred to Forensic Science Laboratory who opined that no opinion could be given with regard to the authorship of the document. Thus they did not confirm the genuineness of the sole document relied on by Sri. G. Srinivas. Further, the then Collector, in his Lr.No. 14/1111/1989 Dated. 13-03-1996, which is referred in G.O. Ms. No. 1068, dated 26-12-1996 categorically stated the sale deed produced by Sri. G. Srinivas dated 12-02-1359 Fasli on Rs. 4/- stamp paper no. 292364 of Osmania Emblem is an unregistered document and that the signature of Sri Khaja Moinuddin Ansari on this document does not tally with the signatures on the original application submitted to Sri. Khaja Moinuddin Ansari in the former Jubilee Hills Municipality for allotment of Plot(File 30 of 1350 Fasli).
- (iv) With regard to un-registered Sale Deed, it is the fact that the document shall be registered within four months from the date of its execution as per section 17 read with section 23 of Registration Act, 1908. If the instrument was never presented before the Sub-Registrar within the period of limitation prescribed for it, it cannot be presented for that purpose after the expiry of period of limitation, if it bears the endorsement of the person admitting such instrument or the Collector, Hyderabad as the case may be. As informed by the Collector the sale document dated 12.02.1939F was got validated by the petitioner on 22.07.1995 i.e., after 45 years of the document date that too with the defect was pointed out by the Collector. As such Sale Document registered in the year 1995 cannot be taken as evidence.
- (v) The MRO, Shaikpet has filed LGC No.169 of 1999 before the Special Court under A.P. Land Grabbing (Prohibition) Act, Hyderabad against M/s. Mayfair Apartment Association and 27 others in T.S. No.13, Block B, Ward 10 correlated to Sy.No.403 to an extent of 5922 Square Metres that suit schedule property Plot No.7.A is an Evacuee Property. The Special Court under A.P.L.G. (P) Act, Hyderabad allowed the LGC No.169 of 1999 on 08.03.2006 and declared the respondents as land grabbers. The Mayfair Apartments Association and others have filed Appeal in W.P.No.9416/2006 in Hon'ble High Court and it is pending.
- (vi) The Petitioner Sri. G. Srinivas nor his predecessors have never been in possession of the land. The defunct Jubilee Hills Municipality carved out plots out of Government land in Sy. No. 403 and allotted to various individuals for valuable consideration. The Plot NO. 7-A is one of such plots which was allotted to Khaja Moinudding Ansari who after making payment of value of the land migrated to Pakistan without taking possession of the land. Thus the land remained in the possession of the Government. A portion of the land was encroached by Mayfair Apartments and against whom State has filed a Land Grabbing Case in LGC 169/99 which was disposed of in favour of the Government confirming the rights of the Government in respect of Plot No. 7-A. It is noteworthy that Sri. G. Srinivas never objected the encroachment made by the Mayfair Apartment and he never agitated against Mayfair Apartment in any court of law and this very fact confirms that he has no rightful claim over the land in Plot No. 7-A.
- (vii) Sri. G. Srinivas relies on G.O. Ms. No. 955 dated 17-09-1992 as if it had conferred rights upon him. In fact, the Hon'ble Division Bench commenting on the G.O. Ms. No. 955 observed that it does not confer any enforceable rights upon the Writ Petitioner (G.Srinivas) as Government has merely directed the Collector to issue NOC and Supplementary Sethwar after satisfying himself about the documents.

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- (viii) Further, the Hon'ble Supreme Court gave liberty to Government to review the earlier orders if they were passed by mistake and ignorance of the relevant facts, if inter alia it is found that a fraud was practiced or there was willful suppression on the part of the appellant (G.Srinivas)
- (ix) Sri G.Deepak Reddy and others have not submitted any documents along with their implead petition to substantiate their claim over Plot No.7A, 8D and 8E in Sy.No.129/71 of Erstwhile Jubilee Hills Municipality.

11. Government, after taking into consideration of the above points, observe that the claims of Sri. G. Srinivas over Plot No. 7-A admeasuring Ac. 2.38 gts., situated at Road No.2, Banjara Hills, Hyderabad and the claim of Sri G.Deepak Reddy & (3) others over Plot No.7A, 8D & 8E of Erstwhile Jubilee Hills Municipality are liable to be rejected. Accordingly, Government hereby reject the request of Sri G. Srinivas for issue of NOC and Supplementary Sethwar in respect of Plot No. 7-A admeasuring Ac. 2.38 gts., situated at Road No.2, Shaikpet Village and Mandal, Banjara Hills, Hyderabad and for incorporating his name in the T.S.L.R. and the request of Sri G.Deepak Reddy & (3) others to declare them as owners in respect of Plot No.7A,8D & 8E in Sy.No.129/71, admeasuring Ac.13.00 at Banjara Hills, Road No.2, Hyderabad and to mutate their names in the revenue records.

12. The Chief Commissioner of Land Administration / District Collector, Hyderabad shall take necessary further action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.R. MEENA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Spl. CS & CCLA., A.P., Hyderabad.
The Collector, Hyderabad District.

Copy to :

1. The G.P for Revenue (TA),
AP High Court, Hyderabad.
2. Sri G. Srinivas S/o Venkaiah,
[Rep by his GPA holder
Sri K. Pratap Reddy S/o Bachi Reddy
H.No.2-2-25/P/5, Durgabai Deshmukh Colony,
Baghamberpet, Hyderabad.
3. Sri. G. Deepak Reddy S/o G. Padmanabham Reddy,
R/o H.No. 8-2-703/6/A, Road No.12,
Banjara Hills, Hyderabad.
4. SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER